

Please type a plus sign (+) inside this box

PTO/SB/05 (12/97) (modified)  
Approved for use through 09/30/00. OMB 0651-0032  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

11/03/00



**UTILITY  
PATENT APPLICATION  
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 441742001200

Total Pages 64

First Named Inventor or Application Identifier

James G. WHAYNE et al.

Express Mail Label No. EL569178593US

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

Express Mail Label No.: EL569178593US

Date of Deposit: November 3, 2000

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" see 37 C.F.R. § 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Gary Paulazzo

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form  
(Submit an original, and a duplicate for fee processing)
2. ☒ Specification [Total Pages 40]  
(preferred arrangement set forth below)
  - Descriptive title of the Invention
  - Cross References to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to Microfiche Appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
3. ☒ Drawing(s) (35 USC 113) [Total Sheets 13]
4. ☒ Oath or Declaration [Total Pages 2]
  - a. ☒ Newly executed (original or copy)
  - b. ☐ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 17 completed)  
[Note Box 5 below]
  - i. ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)
5. ☐ Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)
7. ☐ Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)
  - a. ☐ Computer Readable Copy
  - b. ☐ Paper Copy (identical to computer copy)
  - c. ☐ Statement verifying identity of above copies

**ACCOMPANYING APPLICATION PARTS**

8. ☒ Copy of Assignment from prior provisional application.
9. ☒ 37 CFR 3.73(b) Statement ☒ Power of Attorney  
(when there is an assignee)
10. ☐ English Translation Document (if applicable)
11. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
12. ☐ Preliminary Amendment
13. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
14. ☐ Small Entity Statement(s) ☒ Statement filed in prior provisional application, Status still proper and desired
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No:

**18. CORRESPONDENCE ADDRESS**

Johnney U. Han  
Registration No. 45,565

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5786  
Facsimile: (650) 494-0792

- ☒ If a paper is untimely filed in the above-referenced application, the applicant or his/her representative, the Assistant Commissioner is hereby petitioned under 37 C.F.R. § 1.136(a) for the minimum extension of time required to make said paper timely. In the event a petition for extension of time is made under the provisions of this paragraph, the Assistant Commissioner is hereby requested to charge any fee required under 37 C.F.R. § 1.17(a)-(d) to **Deposit Account No. 03-1952**. However, the Assistant Commissioner is **NOT** authorized to charge the cost of the issue fee to the Deposit Account.

The filing fee has been calculated as follows:

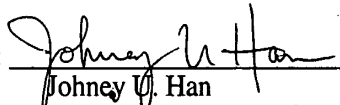
| FOR   | NUMBER FILED | NUMBER EXTRA | RATE                          | CALCULATIONS |
|---|--------------|--------------|-------------------------------|--------------|
| TOTAL CLAIMS  | 31 - 20 =    | 11           | x \$18.00                     | \$198.00     |
| INDEPENDENT CLAIMS  | 3 - 3 =      | 0            | x \$80.00                     | \$0.00       |
| MULTIPLE DEPENDENT CLAIM(S) (if applicable)   |              |              | + \$270.00                    | \$0.00       |
|   |              |              | BASIC FEE                     | \$710.00     |
|   |              |              | TOTAL OF ABOVE CALCULATIONS = | \$908.00     |
| Reduction by 1/2 for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27, 1.28).<br>If applicable, verified statement must be attached. |              |              |                               | \$454.00     |
| Assignment Recording Fee (if enclosed)  |              |              |                               | \$0.00       |
|   |              |              | TOTAL =                       | \$454.00     |

- ☒ A check in the amount of \$454.00 is attached.

Applicant(s) hereby petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees or to credit any overpayment to **Deposit Account No. 03-1952** referencing docket no. **441742001200**.

Dated: November 3, 2000

Respectfully submitted,

By:   
Johny U. Han  
Registration No. 45,565

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5786  
Facsimile: (650) 494-0792

Applicant/Patentee: James G. WHAYNE et al.

Serial No./Patent No.: To Be Assigned

Docket No.: 441743001200

Filed on/Issued: Filed herewith

For: HEART SUPPORT TO PREVENT VENTRICULAR REMODELING

VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS  
37 C.F.R. §§ 1.9(f) AND 1.27(c) — SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ the owner of the small business concern identified below;  
☒ an official of the small business concern empowered to act on behalf of the concern identified below;

NAME OF CONCERN: CONVERGE MEDICAL, INC.

ADDRESS OF CONCERN: 7026 Koll Center Parkway, Pleasanton, CA 94566

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 121.12, and reproduced in 37 C.F.R. § 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled HEART SUPPORT TO PREVENT VENTRICULAR REMODELING by inventor(s) James G. WHAYNE, Deborah Tolomeo, Russell A. HOUSER, and Sidney D. FLEISCHMAN described in

- ☒ the specification filed herewith with title as listed above.  
☐ the application identified above.  
☐ the patent identified above.

If the rights held by the above identified business concern are not exclusive, each individual, concern or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 C.F.R. § 1.9(d), or a nonprofit organization under 37 C.F.R. § 1.9(e).

Each person, concern or organization having any rights in the invention is listed below:

- ☒ no such person, concern, or organization exists.  
☐ each such person, concern or organization is listed below.

| NAME | ADDRESS | TYPE  |
|------|---------|---|
|      |         | <input type="checkbox"/> Individual<br><input type="checkbox"/> Small Business Concern<br><input type="checkbox"/> Nonprofit Organization |

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27)

I acknowledge the duty to file, in this application or patent, notification or any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b))

08/24/00 13:44 FAX 650 813 5

MOFO PA #TWO

925 .249 1239

p. 3

005

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Russell A. Houser  
TITLE OF PERSON IF OTHER THAN OWNER: Chief Technical Officer  
ADDRESS OF PERSON SIGNING: 7026 Koll Center Parkway, Picasanton, CA 94566

SIGNATURE:

DATE: 8/29, 2000

COPY

*[Faint, illegible text from bleed-through]*